

In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.4684 of 2006.

Date of decision:14.11.2006.

Santokh Singh and another.

...Petitioners.

Versus

Gurmukh Singh.

...Respondent.

...

Coram: Hon'ble Mr. Justice S.N.Aggarwal.

...

Present: Mr.S.K.Chawla Advocate for the petitioner.

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Judgment.

S. N.Aggarwal, J.

The petitioners filed a civil suit for injunction for restraining the respondent from dispossessing them from their share out of the land measuring 16 Kanals. Along with the civil suit, the petitioners filed an application for interim stay under Order 39 Rules 1 and 2 read with Section 151 CPC.

The suit and the application were contested by the respondent.

However, the learned trial Court passed order dated

9.3.2006 considering that the application was filed seeking to restrain the respondent from alienating the suit property.

The petitioners filed an appeal and took the plea that the application was filed by them against their dispossession but the learned trial Court has gone wrong in passing a different kind of order.

The respondent also filed cross objections against the order dated 9.3.2006 passed by the learned trial Court by which the respondent was required to seek permission of the Court before alienating the suit property. The appeal filed by the petitioners and the cross-objections filed by the respondent were disposed of by the learned Lower Appellate Court vide order dated 12.8.2006. The learned Lower Appellate Court held that both the parties are in joint possession and no injunction can be granted against any of the co-sharers. Therefore, the application for interim stay filed by the petitioners was dismissed. However, the cross objections filed by the respondent were accepted by which the respondent was required to seek permission of the Court before alienating the suit property and order dated 9.3.2006 was set aside.

Hence, the present revision petition.

The learned counsel for the petitioners submits that the respondent be restrained from dispossessing the petitioners from the suit property as they are co-sharers.

This submission has been considered.

Both the parties are in joint possession and,therefore, the learned Lower Appellate Court has rightly held that no injunction can be granted against a co-sharer.

No merit.

Dismissed.

November 14,2006.
Jaggi

(S. N. Aggarwal)
Judge